

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JONATHAN O. MADU

PETITIONER

VS.

CIVIL ACTION NO. 3:06CV59-WHB-JCS
CRIMINAL ACTION NO. 3:93CR49-WHB-JCS

UNITED STATES OF AMERICA

RESPONDENT

OPINION AND ORDER

This cause is before the Court on Petitioner Jonathan Madu's Motion to Vacate Prior Conviction Pursuant to 28 U.S.C. § 2255. The Motion is not well taken and must be denied.

On May 19, 1993, Petitioner was arrested and charged with three counts of making false statements to obtain student financial assistance, in violation of 20 U.S.C. § 1097. On October 20, 1993, Petitioner was convicted of the charged crimes. He received a sentence of five years probation and payment of \$2,852.82 in restitution. The Court is of the understanding that Petitioner, who is not a citizen of the United States, is now undergoing deportation based on this criminal conviction. He seeks to have the conviction set aside so that he will not suffer deportation.

The subject Motion to Vacate was filed with the Clerk of the Court on January 30, 2006, over twelve years after his conviction became final. The limitations period for filing a § 2255 petition is one year after the conviction in issue becomes final. United

States v. Flores, 135 F.3d 1000, 1005-06 (5th Cir. 1998); McClure v. Ashcroft, 335 F.3d 404, 414 (5th Cir. 2003). Because the Petitioner's Motion to Vacate was not filed in a timely manner, it must be denied.

Based on the holdings presented above:

IT IS THEREFORE ORDERED that Petitioner Jonathan Madu's Motion to Vacate Prior Conviction Pursuant to 28 U.S.C. § 2255 (docket entry no. 1 in cause no. 3:06cv59; unidentified docket entry no. in cause no. 3:93cr49) is hereby denied. A Final Judgment dismissing this case with prejudice will be entered.

SO ORDERED this the 27th day of July, 2006.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE

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